



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

August 2, 2007

BY ELECTRONIC MAIL AND REGULAR MAIL

Mr. Christopher R.L. Colbourne
Vice President Design and Construction
Masterworks Development Corp.
56 West 45th Street, 4th Floor
New York, N.Y. 10036

**Re: Revisions to the Specification for Abatement and Selective Demolition
of 130 Cedar Street Building and its Appendices**

Dear Mr. Colbourne:

The United States Environmental Protection Agency (EPA) has reviewed the following documents submitted electronically on July 20, 2007 by RJ Lee Group, Inc. (RJ Lee) on behalf of Masterworks Development Corp. (Masterworks): Specification for Abatement and Selective Demolition, June 19, 2007 (should have been dated July 20, 2007), Protocol Refinements, Including Response Edits to EPA Comments of July 17, 2007; Appendices F through L to the Specification for Abatement and Selective Demolition; Master Table of Contents; and Owner's Response Letter to EPA Comments of July 17, 2007.

The draft aforementioned documents were also provided for review to the New York City Department of Environmental Protection (NYCDEP). EPA's and NYCDEP's comments are attached.

EPA's review of the draft aforementioned documents focused on containment measures to control potential releases of contaminants, proper procedures for monitoring and waste disposal. NYCDEP based their review on the regulations related to performance of an asbestos project.

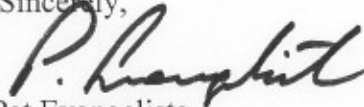
EPA and NYCDEP are not responding, by this letter, to any draft revisions currently being made by Masterworks in conjunction with RJ Lee, the Lower Manhattan Construction and Command Center (LMCCC), and the Lower Manhattan Development Corporation (LMDC) with regard to the *Specification for Community Air Monitoring*, June 19, 2007, *Protocol Refinements*, *Edits per EPA Comment Letter dated July 26, 2007*, *Edits per July 27, 2007 Conference Call and Edits per LMDC, Masterworks, TCR & RJLG July 31, 2007 Conference Call*; and the *Quality Assurance Program Plan (QAPP)*, June 19, 2007, *Protocol Refinements*, *Edits per EPA Comment Letter dated July 26, 2007*. The revisions to these documents pertain primarily to the proposal to use two of the air monitoring stations from the 130 Liberty Street project as a replacement for two of the air monitoring stations already accepted to be used on-site at the 130 Cedar Street project as currently stated in the accepted March 27, 2007 version of the *Specification for Community Air Monitoring*. Based on our August 1, 2007 discussion, it is our understanding that LMDC and LMCCC are currently reviewing your revisions to the *Specification for Community Air Monitoring* and the formal agreement between the owner(s) of the 130 Cedar Street building, LMCCC, and LMDC originally signed on July 19, 2007. Once a final agreement has been made between the owner(s) of the 130 Cedar Street building, LMCCC, and LMDC, please provide us electronic copies of the proposed revisions to the *Specification for Community Air Monitoring* and the QAPP. Further work should not commence at 130 Cedar Street until EPA and NYCDEP accept your response to all of our outstanding comments and the matters related to the two “shared” air monitoring stations are fully resolved and accepted.

The regulators reserve the right to modify the attached comments and/or make additional comments about the proposed work if new information becomes available, or information, currently known and considered, is changed in whole or in part during the abatement and selective demolition project. The attached comments do not pertain to any matters not addressed in the documents reviewed. In the event that the plans for the abatement and selective demolition have to be supplemented as the project proceeds, the regulators will review and may provide additional comments after we review the supplementary information and documents submitted by Masterworks and/or its environmental consultant(s) or contractor(s).

To explain the revisions to the Draft, EPA requests that Masterworks provide the regulators with a separate response to each of the attached comments that states: (1) whether the comment has been incorporated into the revised draft submission; (2) if a comment has not been incorporated, the reason it was not incorporated; and, (3) any additional information to address Masterwork’s response to the attached comments. The supplement will facilitate the regulators’ review process. Kindly let us know Masterworks’ schedule for submitting the revised draft submission.

We look forward to your response to our comments and final resolution of the outstanding matters related to the two "shared" air monitoring stations.

Sincerely,



Pat Evangelista
WTC Coordinator
New York City Response and Recovery Operations

Enclosure

cc: Sal Carlomagno, NYSDEC w/encl.
Chris Alonge, NYSDOL w/encl.
Krish Radhakrishnan, NYCDEP w/encl.
Richard Mendelson, OSHA w/encl.
Robert Iulo, NYCDOB w/encl.
Max Lee, NYCDOB w/encl.

Draft Specification for Abatement and Selective Demolition
June 19, 2007 Protocol Refinements
Including Response Edits to EPA Comments of July 17, 2007

General Comment:

1. For the next submission of Section 4.0, Specification for Abatement and Selective Demolition, please strike-out the date of “June 19, 2007” and replace with the date of the next submission of the document since Section 4.0 has undergone changes since the amendments were originally proposed in June 2007.
2. In EPA’s comment No. 1 in our July 17, 2007 comment letter to Masterworks, EPA stated that the owner, its consultants and contractors should be cognizant that any changes that may need to be made to the 130 Cedar Street documents pertaining to the selective demolition and abatement of the 130 Cedar Street building may trigger changes to the submissions made to the New York City Department of Environmental Protection (NYCDEP), such as, but not limited to, the approved petition for variance dated April 20, 2007, and any subsequent revisions to it.

Masterworks’ July 20, 2007 response states that it does not feel that any edits to the NOVA/NYCDEP documents will be necessary. Based on discussions with NYCDEP, NYCDEP believes that at a minimum, a clarification letter from NOVA may be needed based on the revisions proposed by Masterworks and its consultant(s). NYCDEP indicated that they contacted NOVA via phone to identify what they would need to provide in the clarification letter. However, NOVA stated that Masterworks has not provided them direction to revise the documents previously submitted or provide a clarification letter. Please resolve this issue with your contractor and direct NOVA to provide the information that was specifically requested by NYCDEP.

Subsection 1.0 Introduction:

3. Masterworks’ July 20, 2007 response to EPA comment No. 2 states that Appendix L has been added to Section 2.0 of the specifications addressing the procedures approved by NYCDEP for addressing the gap areas between the 130 Cedar Street building and the 90 West Street building. Based on discussions with NYCDEP, Masterworks did not provide the final procedures proposed by NYCDEP in Appendix L. Please find attached the procedures provided by NYCDEP which should replace what is currently provided for Appendix L.

Subsection 2.1 Phase I: Abatement to Develop a “Clean Zone”:

4. In EPA’s comment No. 22 in our July 17, 2007 comment letter to Masterworks, EPA stated that Section 4.0, Specification for Abatement and Selective Demolition, should be revised to explicitly state that the basement level portion of the passenger elevator shaft

would be re-cleaned if water intrusion does occur into the basement level of the passenger elevator shaft due to abatement of the passenger elevator shaft floors above it.

Masterworks' July 20, 2007 response was to add the following language to subsection 2.1 of Section 4.0: "Should water infiltrate from any containment above after this area has been cleared, the water will be abated per NYCDEP regulations and approval dependent on the nature of the infiltration."

This response is not adequate. This subsection should be revised to state that the basement level portion of the passenger elevator shaft will be re-cleaned, and will undergo final visual inspection and final clearance air sampling once again, if water intrusion does occur from any abatement containment area above into the basement level of the passenger elevator shaft after this area had already been cleared during Phase I. Further, this subsection should state that any water collected in the passenger elevator shaft will be handled, managed, sampled, and disposed of, as stated in subsection 7.4, Exterior Wash Water, of Section 7.0, Waste Sampling and Management Plan.

Subsection 2.7 Phase III A1: Abatement/Demolition of the West Roof Parapet Walls and 90 West St. Façade Clean Up:

5. In EPA's comment No. 15 in our July 17, 2007 comment letter to Masterworks, EPA noted that this subsection had been revised to state that the concrete west roof parapet walls would be demolished during selective demolition in Phase IV. However, the original accepted version of the plan also discussed the abatement of the west roof parapet walls. EPA asked Masterworks in what phase was the abatement proposed to be done now and where in the plan could the procedures to be followed for its abatement be found?

Masterworks' July 20, 2007 response was that the poured concrete west parapet walls were to be demolished to facilitate the façade cleaning in the "gap" and that since a procedure for the NYCDEP in conjunction with the New York City's Office of the Chief Medical Examiner (OCME) has been approved to handle the "gap clean-up" there is no longer a need to demolish/abate these walls under containment.

Masterworks still has not addressed the question of what phase is the abatement proposed to be done now and where in the plan can the procedures to be followed for its abatement be found? Based on discussions with NYCDEP, NYCDEP has stated that it does not plan to abate the west parapet walls during its cleaning of the gap. NYCDEP has also stated that the procedures for abating and clearing this area should be followed as stated in subsection 2.7 of the original April 13, 2007 version of Section 4.0, Specification for Abatement and Selective Demolition. All relevant portions of the plan should be revised to address this issue.

6. In EPA's comment No. 16 in our July 17, 2007 comment letter to Masterworks, EPA asked Masterworks if the west roof parapet walls were damaged or breached since subsection 2.8 stated that the initial inspection of the exterior bay damage indicated that

there were areas of damage that extend from the roof parapets down the side(s) of the building through floors 12, 11, and into the 10th floor.

Masterworks' July 20, 2007 response was that there is no interstitial space in a poured concrete wall that could be contaminated from damage so the parapets will be left for demolition during Phase IV.

Masterworks still has not addressed the question of if the west roof parapet walls were damaged. Please state if these walls were damaged or not. Subsection 1.0, Introduction, of Section 4.0, Specification for Abatement and Selective Demolition, states the following: "If any bays are found to have been damaged or breached, the entire bay will be considered interstitially contaminated with WTC dust. These walls will be abated under the full negative pressure containments and procedures described in this specification." If the west roof parapet walls are damaged, containment procedures already noted in the plan should be followed for the demolition of these walls during one of the abatement phases for the project and the relevant portions of the plan should be revised accordingly. As noted above, NYCDEP has already stated that these walls should be gross abated based on the procedures specified in subsection 2.7 of the original April 13, 2007 version of Section 4.0, Specification for Abatement and Selective Demolition. Those procedures pertained to NYCDEP Modified Tent Procedures (Attachment TM), final visual inspection, and final air clearance sampling of the tent enclosures.

Subsection 2.8 Phase III B: Abatement of Floors 10, 11, and 12:

7. In EPA's comment No. 17 in our July 17, 2007 comment letter to Masterworks, EPA noted that numerous bullet items had been deleted in the proposed revisions to this subsection. In particular, one of the bullet items we had questions on was the following: "Abatement will begin at the top of the wall on the upper most floor of the containment, in the case of this Phase IIIB that will be floor 12. For HEPA vacuuming of the brick and concrete, the HEPA Vacuum labeled and dedicated for the use only in areas of interest to the OCME will be used. The debris from this vacuum will be stored in a designated area until such time as an OCME representative inspects the debris. At present, plans are to store this bagged debris in a secure area on the north side of the 1st floor in an area under containment."

EPA asked why this bullet item was being removed since it discusses the approach to be taken for areas of interest to the OCME. We stated that the bullet item should remain within the plan. Masterworks did not re-incorporate it into the plan and in its response to comments makes various references to the "gap".

Based on discussions between EPA and NYCDEP, we believe it is appropriate to re-incorporate this language within this subsection in order for there to be a contingency plan/procedure in-place that can be followed for those interior areas of the building that OCME requests to inspect during the project.

Subsection 2.10 Phase III D: Abatement of Floor 9 and Floor 8:

8. In EPA's comment No. 20 in our July 17, 2007 comment letter to Masterworks, EPA noted that numerous bullet items had been deleted in the proposed revisions to this subsection. In particular, one of the bullet items we had questions on was the following:

“Brick and concrete will be HEPA vacuumed utilizing a HEPA Vacuum labeled and dedicated for the use only in areas of interest to the OCME. The debris from this vacuum will be stored in a designated area until such time as an OCME representative inspects the debris. At present, plans are to store this bagged debris in a secure area on the north side of the 1st floor in an area under containment.”

EPA asked why this bullet item was being removed since it discusses the approach to be taken for areas of interest to the OCME. We stated that the bullet item should remain within the plan. Masterworks did not re-incorporate it into the plan and in its response to comments referenced us to its response to comment No. 17 with regard to the “gap”.

Based on discussions between EPA and NYCDEP, we believe it is appropriate to re-incorporate this language within this subsection in order for there to be a contingency plan/procedure in-place that can be followed for those interior areas of the building that OCME requests to inspect during the project.

Subsection 2.12 Phase IIIJ: Freight Elevator:

9. The revisions made to the last line of the last bullet item of page 7 of the redlined version of this subsection is incoherent. Please revise.

10. The following ***bold italic*** language should be added to the end of the last sentence of the second to last paragraph of this subsection: “Seven sets of asbestos and metals samples will be taken in the Freight Elevator Shaft and five sets ***of asbestos and metals samples will be taken*** in the Elevator Machine Room.”